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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,438	06/22/2000	Jerzy Michal Lemanczyk	193337US2	7854

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EXAMINER

VANORE, DAVID A

ART UNIT PAPER NUMBER

2881

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/599,438

Applicant(s)

LEMANCZYK ET AL.

Examiner

David A Vanore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

### ***Specification***

The disclosure is objected to because of the following informalities: On pages 10-12, the applicant's disclosure refers to item 8 as both a radiating element, a horn, and a support. Examiner assumes this is a typographic error, but the specification must be corrected such that one reference number corresponds to one element. Further, the specification and claims refer to an "anechoid" chamber. The examiner assumes this is a further typographic error referring to an "anechoic" chamber.

Appropriate correction is required.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "8" has been used to designate both a radiating element, a support, and a horn. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the measuring device" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the wavelengths associated with the electromagnetic radiations from said source" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim.

While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "radiating element" in claims 1-13 is used to describe element 8, which receives electromagnetic radiation from an antenna (2) under test. There is no disclosure that the probe element (8) which would receive the radiation from the antenna, actually radiates anything. The claim language should be modified to reflect the function of the element.

The term "hyper-frequency" in claims 11 and 13 is a relative term which renders the claim indefinite. The term "hyper-frequency" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. What frequency of electromagnetic radiation lies in the "hyper-frequency" range?

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4-6 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The teaching of how the moveable carrying device is

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associated with the probe device of claim 1 is critical or essential to the practice of the invention, but not is included in the claim(s) and is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Claim 4 or the specification must be amended in such a way as to teach the association of the movable carrying device and the probe device recited in claim 1. No new matter may be submitted.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hemming.

Hemming teaches a probe device for measuring an electromagnetic field radiated by a source under test comprising a radiating element (14), which inherently must have a support means satisfying the limitation of the support and probe mount, and further comprising a screen means (16) for reflecting and redirecting radiation into space (Col. 5 Lines 60-67) where the radiation emanates from a radiation source under test (12) as recited in claim 1.

The screen means (16), source (12), and radiating means (14) are all along a common axis of central symmetry (Fig. 1). Since the screen (16) reflects and re-emits

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radiation as cited above, any such reflection and re-emission must therefore be away from this central axis of symmetry as recited in claim 2.

Further, device cited above is enclosed in an anechoic chamber (10) which absorbs radiation which is redirected and reflected as recited in claim 3.

### ***Claim Objections***

Claims 2 and 3 are objected to because of the following informalities: The word from is spelled as the word "form" on line 7 of each claim. The appropriate correction is required.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following US Patent references teach antenna elements which redirect radiation:

US Patent 5,033,833 (Brown); and US Patent 5,581,267 (Matsui et al.)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A Vanore whose telephone number is 703-306-0246. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Lee can be reached on 703-308-4116. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

dav  
March 4, 2003

  
JOHN R. LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER